

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**ERIC FRITZGERALD LEWIS,**

**Plaintiff,**

**V.**

**UNIVERSITY MEDICAL CENTER, and  
OMAHA POLICE DEPARTMENT,**

**Defendants.**

**Case No: 8:07CV27**

# MEMORANDUM AND ORDER

This matter is before the court is the plaintiff's Notice of Appeal and Motion for Leave to Appeal in forma pauperis. Filing Nos. 12 & 13. The plaintiff appeals the judgment (See Filing Nos. 6 and 7) filed on February 8, 2007 dismissing his complaint for relief under 42 U.S.C. § 1983.

Pursuant to 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” See also Fed. R. App. P. 24(a)(3). If a district court determines that an appeal is not taken in good faith, the court shall, pursuant to Fed. R. App. P. 24(a)(2), state the reasons in writing.

The plaintiff's complaint alleged that in the course of obtaining medical tests performed by the University Medical Center, he was hooked up to nano-technology that permits the Omaha Police Department to monitor his conduct on a 24-hour basis. He believes his constitutional rights have been violated and he seeks injunctive relief and damages. On February 8, 2007, the plaintiff's complaint was dismissed pursuant to 28 U.S.C. § 1915A(b) and 28 U.S.C. § 1915(e)(2)(B), and judgment was entered accordingly.

Filing No. 6, p. 2.

The petitioner's appeal of this ruling is not based on any rational argument in law

or fact which would entitle him to relief, is plainly frivolous, and is therefore not filed in good faith. See Neitzke v. Williams 490 U.S. 319, 326 (1989); Coppedge v. U.S., 369 U.S. 438, 445 (1962); Ellis v. U. S. 356 U.S. 674, 674-75 (1958). Since the appeal is not taken in good faith, the petitioner cannot file an appeal in forma pauperis. See Fed. R. App. P. 24(a)(3) and 28 U.S.C. § 1915(a)(3).

THEREFORE, IT IS ORDERED:

1. The plaintiff's motion for leave to appeal in forma pauperis, Filing No. 13, is denied; and
2. The Clerk of Court shall send a copy of this Memorandum and Order to the parties and the Eighth Circuit as notice that the plaintiff has been denied IFP status.

Dated this 20<sup>th</sup> day of August, 2007.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge